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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,479	10/30/2003	David J. Stucky	D0932-00412	7414
8933	7590	02/10/2006	EXAMINER	
DUANE MORRIS, LLP			LAUX, JESSICA L	
IP DEPARTMENT			ART UNIT	
30 SOUTH 17TH STREET			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/697,479	Applicant(s) STUCKY ET AL.	
	Examiner Jessica Laux	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-17 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 3,6 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/30/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I – Figures 1-5

Species II – Figures 6-11.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 14, and 17 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Mr Gribock on January 31, 2006 a provisional election was made without traverse to prosecute the invention of species II, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-2, 4-5, and 7-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Donlin et al. (69550199).

In regards to claim 1: A siding panel for facing a structural surface substantially defining a plane, wherein: a plurality of such panels are mountable on the structural surface parallel to one another along a direction of elongation, in lapped courses (Figures 1 and 1A); at least certain of the building panels comprise butt joint structures joining said certain building panels with other such panels end to end in the direction of elongation (Figure 8A; Col. 4, line 64), and wherein the panels have first and second ends of which the first end of one of the panels mates with the second end of another of the panels (Figures 2, 3, and 8A); wherein the complementary joint structures comprise at least one of edges (Figure 3, elements 50 and 54) and slots (Figure 7, elements 51a and 55a) by which the first and second ends are engageable by end to end insertion in the direction of elongation (Col. 6, lines 31-36); and, wherein the panels and said edges and slots are structured to enable the first and second ends to be engaged by relative movement in a direction perpendicular to the direction of elongation (Col. 6, lines 25-30).

In regards to claim 2: The siding panel of claim 1, wherein said at least one of the edges and slots are formed by substantially parallel web portions spaced from the plane of the structural surface (Figure 7, elements 20 a,b,c; and Col. 5, lines 4-23), alternatively fittable into one another along the direction of elongation, and along a direction perpendicular to the direction of elongation and parallel to the plane of the surface (Col. 6, lines 25-36).

In regards to claim 4: The siding panel of claim 1, wherein each of the panels forms a sawtooth in cross section (Figure 3), with at least an upper and a lower sloping flat part being integrally joined at a step (Figure 3, element 16) along a lower edge of the upper sloping flat part, the panel thereby forming at least two courses of said sloping flat parts (Figures 2 and 3).

In regards to claim 5: The siding panel of claim 4, wherein at least one of the first and second ends has two parallel web portions (Figure 7, elements 20a and 20b) spaced apart in a direction normal to the plane of the structural surface, the two parallel web portions being spaced by substantially a thickness of an edge of the other of the at least one of the first and second ends, received between the two parallel web portions for joining the panels end to end.

In regards to claim 7: The siding panel of claim 4, wherein the butt joint structure comprises at least one tab spaced from a back side (Figure 3, elements 50 and 54) surface of one of the first and second ends by a distance substantially equal to a thickness of the other of the first and second ends that fits between the tab and the back side surface in an end-wise overlap of the first and second ends (Figure 8B).

In regards to claim 8: The siding panel of claim 7, wherein the tab is placed adjacent to the step at the lower edge of the upper sloping flat part (Figures 8 A and B).

In regards to claim 9: The siding panel of claim 7, wherein the step at the lower edge of the upper sloping flat part at one of the first and second ends is cut away (Figure 7, element 51a) from an edge of the panel by a clearance distance permitting an

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engaging part of the other of the first and second ends to pass between the upper and lower sloping flat parts (Figures 8 A and B).

In regards to claim 10: The siding panel of claim 9, wherein the engaging part is a tab raised from the back side surface (Figure 8A, element 51).

In regards to claim 11: The siding panel of claim 10, further comprising at least one additional tab (element 54) raised from the back side surface of at least one of the upper and lower sloping flat parts and wherein a corresponding edge at an other of the upper and lower sloping flat parts is cut away from the edge to form a passage for the additional tab (element 55a).

In regards to claim 12: The siding panel of claim 1, wherein at least one of the edges and the slots is tapered in an insertion direction (Col. 5, line 7).

In regards to claim 13: The siding panel of claim 12, wherein at least one of the edges and the slots is shaped to form a frictional restriction that engages without a specific detent position (Figure 8A, element 20c).

In regards to claim 14: A siding panel comprising: a panel body structured for mounting in horizontally elongated courses having a vertical overlap at which a lower edge of an upper panel overlies an upper edge of a lower panel (Figure 4; Col. 3, lines 51-53); at least one upwardly opening hook adjacent to the lower edge of the upper panel (element 31); at least one downwardly opening hook adjacent to the upper edge of the lower panel (element 28); wherein the upwardly opening hook and the downwardly opening hook engage with a frictional interference fit (the panel taught by Donlin has hooks capable of engage with a frictional interference).

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In regards to claim 15: The siding panel of claim 14, wherein the frictional interference fit is sufficient to support the upper panel temporarily during installation, by engagement of the upwardly and downwardly opening hooks (the panel of Donlin et al. is capable of being temporarily supported by the frictional interference by engagement of the hooks).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Donlin et al. (6955019) in view of Nasi (6301856).

In regards to claim 16: Donlin et al teaches the siding panel of claim 14, wherein at least one of said upwardly and downwardly opening hooks comprises a flange (element 28 or 31) spaced from a plane of the panel body, but does not teach that the flange is at least partly flared in a direction away from the plane of the panel body. Nasi teaches a siding panel having a flange (700) that is slightly flared and wherein the flange is at least partly flared in a direction away from the plane of the panel body (Figure 13), thereby providing a lead-in for engagement of said hooks. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify the structure as taught by Donlin et al. to have a flange portion that is slightly flared as taught by Nasi as the flare provides a starting point for insertion.

Claims 17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donlin et al. (6955019).

In regards to claim 17: A method for joining abutting ends of panels covering a surface in courses, comprising: providing a panel structure having a sawtooth cross section with at least two sloping parts (Figures 1 and 1A) joined by a step (element 16) at a lower edge of an upper one of the sloping parts, and complementary joint structures facing in opposite directions along an elongation of the panels, whereof a first end of one such panel joins to a second end of another such panel (Figures 8A and 8B); providing a tab (Figure 3, element 50) raised from a back side surface of one of the first and second end, placed to capture an edge of the other of the first and second end between the tab and the back side surface, at a position above the step on said other of the first and second end; providing an opening clearance in the step at the lower edge of the upper one of the sloping parts; and, passing the tab through the opening clearance in the step when affixing the complementary joint structures. Donlin et al. and the applicants invention are procedural equivalents in that a tab is inserted into a slot to interlock two panels and it makes no difference if the interlock is above the step, therefore the claim limitations are met.

In regards to claim 19: The method of claim 17, comprising providing the additional tab on each of the upper and lower sloping surfaces. It would be obvious to add additional tabs as it will further increase the strength of the connection.

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In regards to claim 20: The method of claim 17, further comprising engaging one of said panels during installation, by a frictional engagement with an installed second one of said panels, at least at one of a butt joint and an overlap joint, and temporarily holding said one of the panels. Donlin et al. teaches two panels with a butt joint (Figures 8a and 8B) at the ends of elongation and an overlap joint (Figure 4).

In regards to claim 21: The method of claim 20, wherein said frictional engagement is made over a span of insertion depth of said one of the butt joint and the overlap joint, without defining a temperature dependent position. The frictional engagement of Donlin et al. is made over a span of insertion depth of the butt joint and overlap joint, therefore the claim limitations are met.

Allowable Subject Matter

Claims 3, 6, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JL
02/03/2006



Naoko Slack
Primary Examiner